

AMENDED IN ASSEMBLY MAY 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1580

Introduced by Committee on Revenue and Taxation (Charles Calderon (Chair), Beall, Coto, Ma, Portantino, and Saldana)

March 26, 2009

An act to amend Sections 17054, 19136, ~~19136.1, 19136.8, 19136.8,~~ 25128, and 25128.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1580, as amended, Committee on Revenue and Taxation. Taxation: income tax: estimated payments: dependent exemption credit: corporation tax apportionment.

The Personal Income Tax Law and the Corporation Tax Law impose a penalty for underpayment of an estimated income tax. Existing law provides for a credit based on taxes withheld on wages, in modified conformity with federal income tax laws, against the estimated tax payments, including a provision that “an equal part” of that amount is deemed paid on each due date for a taxable year.

This bill would substitute “the applicable percentage,” as defined, for “an equal part” under this provision, as provided.

~~Existing income tax laws require specified individuals to pay estimated income taxes in installments and impose additional liability for underpayments.~~

~~This bill would adjust the amount of those installments under specified circumstances.~~

This bill would also make technical, nonsubstantive changes to provisions of personal and corporation income tax laws relating to penalties, dependent exemption credit, and apportionment of income.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 17054 of the Revenue and Taxation Code
2 is amended to read:

3 17054. In the case of individuals, the following credits for
4 personal exemption may be deducted from the tax imposed under
5 Section 17041 or 17048, less any increases imposed under
6 paragraph (1) of subdivision (d) or paragraph (1) of subdivision
7 (e), or both, of Section 17560.

8 (a) In the case of a single individual, a head of household, or a
9 married individual making a separate return, a credit of fifty-two
10 dollars (\$52).

11 (b) In the case of a surviving spouse (as defined in Section
12 17046), or a husband and wife making a joint return, a credit of
13 one hundred four dollars (\$104). If one spouse was a resident for
14 the entire taxable year and the other spouse was a nonresident for
15 all or any portion of the taxable year, the personal exemption shall
16 be divided equally.

17 (c) In addition to any other credit provided in this section, in
18 the case of an individual who is 65 years of age or over by the end
19 of the taxable year, a credit of fifty-two dollars (\$52).

20 (d) (1) A credit of two hundred twenty-seven dollars (\$227)
21 for each dependent (as defined in Section 17056) for whom an
22 exemption is allowable under Section 151(c) of the Internal
23 Revenue Code, relating to additional exemption for dependents.
24 The credit allowed under this subdivision for taxable years
25 beginning on or after January 1, 1999, shall not be adjusted
26 pursuant to subdivision (i) for any taxable year beginning before
27 January 1, 2000.

28 (2) The credit allowed under paragraph (1) may not be denied
29 on the basis that the identification number of the dependent, as
30 defined in Section 17056, for whom an exemption is allowable
31 under Section 151(c) of the Internal Revenue Code, relating to

1 additional exemption for dependents, is not included on the return
2 claiming the credit.

3 (3) (A) For taxable years beginning on or after January 1, 2009,
4 the credit allowed under paragraph (1) for each dependent shall
5 be equal to the credit allowed under subdivision (a). This
6 subparagraph shall cease to be operative for taxable years beginning
7 on or after January 1, 2011, unless the Director of Finance makes
8 the notification pursuant to Section 99040 of the Government
9 Code, in which case this subparagraph shall cease to be operative
10 for taxable years beginning on or after January 1, 2013.

11 (B) For taxable years that subparagraph (A) ceases to be
12 operative, the credit allowed under paragraph (1) for each
13 dependent shall be equal to the amount that would be allowed if
14 subparagraph (A) had never been operative.

15 (e) A credit for personal exemption of fifty-two dollars (\$52)
16 for the taxpayer if he or she is blind at the end of his or her taxable
17 year.

18 (f) A credit for personal exemption of fifty-two dollars (\$52)
19 for the spouse of the taxpayer if a separate return is made by the
20 taxpayer, and if the spouse is blind and, for the calendar year in
21 which the taxable year of the taxpayer begins, has no gross income
22 and is not the dependent of another taxpayer.

23 (g) For the purposes of this section, an individual is blind only
24 if either (1) his or her central visual acuity does not exceed 20/200
25 in the better eye with correcting lenses, or (2) his or her visual
26 acuity is greater than 20/200 but is accompanied by a limitation
27 in the fields of vision such that the widest diameter of the visual
28 field subtends an angle no greater than 20 degrees.

29 (h) In the case of an individual with respect to whom a credit
30 under this section is allowable to another taxpayer for a taxable
31 year beginning in the calendar year in which the individual's
32 taxable year begins, the credit amount applicable to that individual
33 for that individual's taxable year is zero.

34 (i) For each taxable year beginning on or after January 1, 1989,
35 the Franchise Tax Board shall compute the credits prescribed in
36 this section. That computation shall be made as follows:

37 (1) The California Department of Industrial Relations shall
38 transmit annually to the Franchise Tax Board the percentage change
39 in the California Consumer Price Index for all items from June of

1 the prior calendar year to June of the current calendar year, no
2 later than August 1 of the current calendar year.

3 (2) The Franchise Tax Board shall add 100 percent to the
4 percentage change figure which is furnished to them pursuant to
5 paragraph (1), and divide the result by 100.

6 (3) The Franchise Tax Board shall multiply the immediately
7 preceding taxable year credits by the inflation adjustment factor
8 determined in paragraph (2), and round off the resulting products
9 to the nearest one dollar (\$1).

10 (4) In computing the credits pursuant to this subdivision, the
11 credit provided in subdivision (b) shall be twice the credit provided
12 in subdivision (a).

13 SEC. 2. Section 19136 of the Revenue and Taxation Code is
14 amended to read:

15 19136. (a) Section 6654 of the Internal Revenue Code, relating
16 to failure by an individual to pay estimated income tax, shall apply,
17 except as otherwise provided.

18 (b) Section 6654(a)(1) of the Internal Revenue Code is modified
19 to refer to the rate determined under Section 19521 in lieu of
20 Section 6621 of the Internal Revenue Code.

21 (c) (1) Section 6654(e)(1) of the Internal Revenue Code, relating
22 to exceptions where the tax is a small amount, does not apply.

23 (2) No addition to the tax shall be imposed under this section
24 if the tax imposed under Section 17041 or 17048 and the tax
25 imposed under Section 17062 for the preceding taxable year, minus
26 the sum of any credits against the tax provided by Part 10
27 (commencing with Section 17001) or this part, or the tax computed
28 under Section 17041 or 17048 upon the estimated income for the
29 taxable year, minus the sum of any credits against the tax provided
30 by Part 10 (commencing with Section 17001) or this part, is less
31 than five hundred dollars (\$500), except in the case of a separate
32 return filed by a married person the amount shall be less than two
33 hundred fifty dollars (\$250).

34 (d) Section 6654(f) of the Internal Revenue Code does not apply
35 and for purposes of this section the term "tax" means the tax
36 imposed under Section 17041 or 17048 and the tax imposed under
37 Section 17062 less any credits against the tax provided by Part 10
38 (commencing with Section 17001) or this part, other than the credit
39 provided by subdivision (a) of Section 19002.

1 (e) (1) The credit for tax withheld on wages, as specified in
2 Section 6654(g) of the Internal Revenue Code, shall be the credit
3 allowed under subdivision (a) of Section 19002.

4 (2) (A) Section 6654(g)(1) of the Internal Revenue Code is
5 modified by substituting the phrase “the applicable percentage”
6 for the phrase “an equal part.”

7 (B) For purposes of this paragraph, “applicable percentage”
8 means the percentage amount prescribed under Section
9 6654(d)(1)(A) of the Internal Revenue Code, as modified by
10 paragraph (1) of subdivision (a) of Section 19136.1.

11 (f) This section shall apply to a nonresident individual.

12 (g) (1) No addition to tax shall be imposed under this section
13 to the extent that the underpayment was created or increased by
14 any provision of law that is chaptered during and operative for the
15 taxable year of the underpayment.

16 (2) Notwithstanding Section 18415, this section applies to
17 penalties imposed under this section on and after January 1, 2005.

18 (h) The amendments made to this section by Section 5 of
19 Chapter 305 of the Statutes of 2008 shall apply to taxable years
20 beginning on or after January 1, 2009.

21 (i) The amendments made to this section by the act adding this
22 subdivision shall apply to amounts withheld on wages beginning
23 or after January 1, 2009.

24 ~~SEC. 3. Section 19136.1 of the Revenue and Taxation Code~~
25 ~~is amended to read:~~

26 ~~19136.1. (a) (1) Section 6654(d)(1)(A) of the Internal Revenue~~
27 ~~Code is modified to provide that in lieu of the required installments~~
28 ~~specified in that section, the amount of required installments shall~~
29 ~~instead be as follows:~~

30 ~~(A) For the 1st and 2nd required installments, 30 percent of the~~
31 ~~required annual payment.~~

32 ~~(B) For the 3rd and 4th required installments, 20 percent of the~~
33 ~~required annual payment.~~

34 ~~(2) Section 6654(d)(2)(C)(ii) of the Internal Revenue Code,~~
35 ~~relating to applicable percentage, is modified by substituting “27”~~
36 ~~for “22.5,” “54” for “45,” and “72” for “67.5.”~~

37 ~~(b) This section, including paragraph (2) of subdivision (a),~~
38 ~~shall apply to installments due for each taxable year beginning on~~
39 ~~or after January 1, 2009.~~

1 ~~SEC. 4.~~

2 SEC. 3. Section 19136.8 of the Revenue and Taxation Code,
3 as added by Section 5 of Chapter 10 of the 3rd Extraordinary
4 Session of the Statutes of 2009, is amended to read:

5 19136.8. (a) No addition to tax shall be made under Section
6 19136 with respect to any underpayment of an installment to the
7 extent that the underpayment was created or increased by the
8 disallowance of a credit under subdivision (g) of Section 17053.80.

9 (b) No addition to tax shall be made under Section 19142 with
10 respect to any underpayment of an installment to the extent that
11 the underpayment was created or increased by the disallowance
12 of a credit under subdivision (g) of Section 23623.

13 (c) The Franchise Tax Board shall adopt procedures, forms, and
14 instructions necessary to implement this section in a reasonable
15 manner.

16 SEC. 4. *Section 25128 of the Revenue and Taxation Code is*
17 *amended to read:*

18 25128. (a) Notwithstanding Section 38006, all business income
19 shall be apportioned to this state by multiplying the business
20 income by a fraction, the numerator of which is the property factor
21 plus the payroll factor plus twice the sales factor, and the
22 denominator of which is four, except as provided in subdivision
23 (b) or (c).

24 (b) If an apportioning trade or business derives more than 50
25 percent of its “gross business receipts” from conducting one or
26 more qualified business activities, all business income of the
27 apportioning trade or business shall be apportioned to this state by
28 multiplying business income by a fraction, the numerator of which
29 is the property factor plus the payroll factor plus the sales factor,
30 and the denominator of which is three.

31 (c) For purposes of this section, a “qualified business activity”
32 means the following:

- 33 (1) An agricultural business activity.
34 (2) An extractive business activity.
35 (3) A savings and loan activity.
36 (4) A banking or financial business activity.

37 (d) For purposes of this section:

- 38 (1) “Gross business receipts” means gross receipts described in
39 subdivision (e) *or* (f) of Section 25120 (other than gross receipts
40 from sales or other transactions within an apportioning trade or

1 business between members of a group of corporations whose
2 income and apportionment factors are required to be included in
3 a combined report under Section 25101, limited, if applicable, by
4 Section 25110), whether or not the receipts are excluded from the
5 sales factor by operation of Section 25137.

6 (2) "Agricultural business activity" means activities relating to
7 any stock, dairy, poultry, fruit, furbearing animal, or truck farm,
8 plantation, ranch, nursery, or range. "Agricultural business activity"
9 also includes activities relating to cultivating the soil or raising or
10 harvesting any agricultural or horticultural commodity, including,
11 but not limited to, the raising, shearing, feeding, caring for, training,
12 or management of animals on a farm as well as the handling,
13 drying, packing, grading, or storing on a farm any agricultural or
14 horticultural commodity in its unmanufactured state, but only if
15 the owner, tenant, or operator of the farm regularly produces more
16 than one-half of the commodity so treated.

17 (3) "Extractive business activity" means activities relating to
18 the production, refining, or processing of oil, natural gas, or mineral
19 ore.

20 (4) "Savings and loan activity" means any activities performed
21 by savings and loan associations or savings banks which have been
22 chartered by federal or state law.

23 (5) "Banking or financial business activity" means activities
24 attributable to dealings in money or moneyed capital in substantial
25 competition with the business of national banks.

26 (6) "Apportioning trade or business" means a distinct trade or
27 business whose business income is required to be apportioned
28 under Sections 25101 and 25120, limited, if applicable, by Section
29 25110, using the same denominator for each of the applicable
30 payroll, property, and sales factors.

31 (7) Paragraph (4) of subdivision (c) shall apply only if the
32 Franchise Tax Board adopts the Proposed Multistate Tax
33 Commission Formula for the Uniform Apportionment of Net
34 Income from Financial Institutions, or its substantial equivalent,
35 and shall become operative upon the same operative date as the
36 adopted formula.

37 (8) In any case where the income and apportionment factors of
38 two or more savings associations or corporations are required to
39 be included in a combined report under Section 25101, limited, if
40 applicable, by Section 25110, both of the following shall apply:

1 (A) The application of the more than 50 percent test of
2 subdivision (b) shall be made with respect to the “gross business
3 receipts” of the entire apportioning trade or business of the group.

4 (B) The entire business income of the group shall be apportioned
5 in accordance with either subdivision (a) or (b), *or subdivision (b)*
6 *of Section 25128.5*, as applicable.

7 SEC. 5. Section 25128.5 of the Revenue and Taxation Code,
8 as added by Section 11 of Chapter 10 of the 3rd Extraordinary
9 Session of the Statutes of 2009, is amended to read:

10 25128.5. (a) Notwithstanding Section 38006, for taxable years
11 beginning on or after January 1, 2011, any apportioning trade or
12 business, other than an apportioning trade or business described
13 in subdivision (b) of Section 25128, may make an irrevocable
14 annual election on an original timely filed return, in the manner
15 and form prescribed by the Franchise Tax Board to apportion its
16 income in accordance with this section, and not in accordance with
17 Section 25128.

18 (b) Notwithstanding Section 38006, for taxable years beginning
19 on or after January 1, 2011, all business income of an apportioning
20 trade or business making an election described in subdivision (a)
21 shall be apportioned to this state by multiplying the business
22 income by the sales factor.

23 (c) The Franchise Tax Board is authorized to issue regulations
24 necessary or appropriate regarding the making of an election under
25 this section, including regulations that are consistent with rules
26 prescribed for making an election under Section 25113.